

IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

'99 NOV 9 AM 11 04

IN RE:

AT&T COMMUNICATIONS OF THE
SOUTH CENTRAL STATES, INC.,
TARIFF TO IMPLEMENT \$1.40
DIRECTORY ASSISTANCE CHARGE

)
)
) DOCKET NO. 99-00757
)
)
) EXECUTIVE SECRETARY
)
) TARIFF NO. 99-00757

CONSUMER ADVOCATE DIVISION'S COMMENTS ON PETITION FOR
INFORMATION

Comes the Consumer Advocate Division of the Office of the Attorney General for the State of Tennessee, pursuant to an oral request made by the Directors of the Tennessee Regulatory Authority ("TRA") on Tuesday, November 2, 1999, and hereby sets forth the reasons that the information sought by the Consumer Advocate Division in its Petition for Information is necessary to determine whether AT&T's proposed increase of \$1.40 for directory assistance is "just and reasonable" as required by Tennessee law.

The Consumer Advocate Division is charged under state law with the power to petition public utilities for information:

If the consumer advocate division concludes that it is without sufficient information to initiate a proceeding, it may petition the authority, after notice to the affected utility, to obtain information from the utility.

Tenn. Code Ann. § 65-4-118(c)(2)(B).

FILE

In the present case, AT&T has filed a tariff that proposes to raise the cost to Tennessee consumers for a directory assistance call from no charge, that is "\$0.00," to \$1.40. The company did not present any justification for the increase. Under Tennessee law, all tariffed rates, even those of AT&T or any other inter-exchange carrier, must be "just and reasonable:"

65-5-201. Power to fix rates of public utilities. --The Tennessee regulatory authority has the power after hearing upon notice, by order in writing, to fix just and reasonable individual rates, joint rates, tolls, fares, charges or schedules thereof, as well as commutation, mileage, and other special rates which shall be imposed, observed, and followed thereafter by any public utility as defined in § 65-4-101, whenever the authority shall determine any existing individual rate, joint rate, toll, fare, charge, or schedule thereof or commutation, mileage, or other special rates to be unjust, unreasonable, excessive, insufficient, or unjustly discriminatory or preferential, howsoever the same may have heretofore been fixed or established. In fixing such rates, joint rates, tolls, fares, charges or schedules, or commutation, mileage or other special rates, the authority shall take into account the safety, adequacy and efficiency or lack thereof of the service or services furnished by the public utility.

Tenn. Code Ann. § 65-5-201(emphasis added). In addition, § 65-5-203 provides as follows:

65-5-203. Changes in utility rates, fares, schedules. -- (a) When any public utility shall increase any existing individual rates, joint rates, tolls, fares, charges, or schedules thereof, or change or alter any existing classification, the authority shall have power either upon written complaint, or upon its own initiative, to hear and determine whether the increase, change or alteration is just and reasonable. The burden of proof to show that the increase, change, or alteration is just and reasonable shall be upon the public utility making the same. In determining whether such increase, change or alteration is just and reasonable, the authority shall take into account the safety, adequacy and efficiency or lack thereof of the service or services furnished by the public utility. The authority shall have authority pending such hearing and determination to order the suspension, not exceeding three (3) months from the date of the increase, change, or alteration until the authority shall have approved the increase, change, or alteration;

provided, that if the investigation cannot be completed within three (3) months, the authority shall have authority to extend the period of suspension for such further period as will reasonably enable it to complete its investigation of any such increase, change or alteration; and provided further, that the authority shall give the investigation preference over other matters pending before it and shall decide the matter as speedily as possible, and in any event not later than nine (9) months after the filing of the increase, change or alteration. It shall be the duty of the authority to approve any such increase, change or alteration upon being satisfied after full hearing that the same is just and reasonable. (Emphasis added.)

Thus, before the Authority can approve the proposed \$1.40 tariff, it must determine that the tariff is “just and reasonable.” It is anticipated that AT&T will argue that it, as an “inter-exchange company” (“IXC”), is somehow exempt from state statute. The statutes cited above, however, make no exceptions for IXCs, and neither should the TRA.

In a recent case filed by Sprint/United, TRA Docket No. 99-00553, one director, Director Greer, stated that a \$1.40 was a “high rate” for directory assistance, and another director, Director Kyle, voted against the \$1.40 charge:

DIRECTOR GREER: Let me say I too think its a high rate, but the truth is if I don't want to pay it, I will go somewhere else.

Transcript, TRA Conference Agenda, September 28, 1999, at 15:20-22. Thus, the Authority is on record as expressing either concern with, or opposition to, a \$1.40 charge. Accordingly, the Consumer Advocate Division's Petition for Information should be viewed as a means of providing the Authority with information it needs to alleviate its concerns, one way or another.

Furthermore, with AT&T's present filing, it now appears that Tennessee

consumers trying to “go somewhere else,” as Director Greer put it above, will have a considerably harder time finding that “somewhere else” to go. In fact, there may even be some untutored minds that believe that AT&T’s \$1.40 charge is simply another example of “follow the leader” pricing, and that the much talked about but seldom seen “telecommunications competition” is not working quite right with regard to directory assistance. Thus, the Consumer Advocate Division believes that the TRA should, at the very least, review some information before voting on a \$1.40 charge that one director said was “high” and another one opposed, particularly in a case where Tennessee consumers are at risk of paying millions of additional dollars in telephone bills.

The Consumer Advocate Division believes that the requests contained in its Petition for Information as Attachment A, filed October 29, 1999, are reasonable and virtually self-explanatory. Furthermore, these requests for information cannot reasonably be viewed as delaying a proceeding in which the required thirty (30) day public notice period began only on November 4, 1999, some six days after the Consumer Advocate Division filed its Petition for Information on October 29, 1999. However, as a courtesy to the Authority, and in an attempt to expedite the proceeding, the Consumer Advocate Division will provide a description and explanation for its requests.

REQUESTS 1-4

1. Identify the current average number of directory assistance calls made monthly by the average Tennessee AT&T of the South Central States residential customer.(Provide detailed workpapers and identify the source of all data and all assumptions used.)

2. Identify the current average number of directory assistance calls made monthly by the average Tennessee AT&T of the South Central States business customer.(Provide Detailed workpapers and identify the source of all data and all assumptions used.)
3. Identify the projected number of directory assistance calls that will be made monthly by the average Tennessee AT&T of the South Central States residential customer if the proposed directory assistance charge is approved.(Provide Detailed workpapers and identify the source of all data and all assumptions used.)
4. Identify the projected number of directory assistance calls that will be made monthly by the average Tennessee AT&T of the South Central States business customer if the proposed directory assistance charge is approved.(Provide Detailed workpapers and identify the source of all data and all assumptions used.)

These four requests are intended to find out what will happen to the number of Tennessee consumers using the directory assistance service if the proposed charge is approved. As the body charged with representing the interests of Tennessee consumers, the Consumer Advocate Division believes that it is reasonable to ask if the proposed tariff will lessen or discourage the use of a service that is vital to consumers who wish to call about goods or services that may not be in their local phone books (example: a Nashville resident who wants to know the hours and shows of a music club in Memphis; will such a consumer pay \$1.40 or drop the idea?).

These four requests will also supply information useful in answering Director Greer's question about consumers who may go "somewhere else" when faced with a \$1.40 charge. In addition, these requests will provide information necessary to evaluate the belief that the high price of AT&T directory assistance will be mitigated by customers' presumed knowledge of "ways to get around some of these directory

assistance charges, and I think a knowledgeable consumer can do it.” Statement of Director Greer, Transcript, TRA Conference Agenda, September 28, 1999, at 16:16-18. The Consumer Advocate Division was unable to locate any guidelines for consumers wishing to get around high directory assistance charges; thus, a beneficial result of this docket would be the development of such guidelines.

REQUESTS 5-7

5. Identify the average cost per directory assistance call incurred by AT&T of the South Central States. For example identify the investment used to provide the service, the related depreciation expense, the cost of money include in the cost of providing the service, payroll expense, salary and wage expense, etc.
6. Identify the increase in annual revenue projected to be collected from Tennessee ratepayers if the proposed directory assistance charge is approved. (Provide Detailed workpapers and identify the source of all data and all assumptions used.)
7. Identify any projected annual cost saving that AT&T of the South Central States will realize if the proposed directory assistance charge is approved. (Provide Detailed workpapers and identify the source of all data and all assumptions used.)

The information sought in these requests will allow the TRA to make an informed decision as to whether the proposed \$1.40 charge is “just and reasonable” under Tennessee law. As stated above, it is anticipated that AT&T will argue that its tariff is not subject to the statutory requirement to be “just and reasonable.” The Consumer Advocate Division, of course, strongly disagrees with this position and maintains that it is entitled to ask for information that is relevant under state law. Rule 26 of the Tennessee Rules of Civil Procedure.

REQUESTS 8-10

8. Identify all benefits that AT&T of the South Central States’ Tennessee ratepayers will realize if the proposed directory assistance charge is approved. (Provide Detailed workpapers and identify the source of all data and all assumptions used.)

9. Identify any service that AT&T of the South Central States' Tennessee ratepayers not presently being provided that will be provided if the proposed directory assistance charge is approved.
10. Identify all benefits Tennessee citizens are not currently realizing that they will realize if the proposed directory assistance charge is approved. (Provide Detailed workpapers and identify the source of all data and all assumptions used.)

In Requests 8-10, the Consumer Advocate Division is simply asking what benefits Tennessee consumers can expect to receive if the \$1.40 charge is approved. If the charge is approved AT&T will receive millions of dollars in new revenue. Surely, therefore, it is not unreasonable or irrelevant to ask what consumers will be receiving for the \$1.40 they will be paying to AT&T.

REQUESTS 11-14

11. Identify the intrastate revenue that AT&T of the South Central States is currently collecting from Tennessee consumers by source for the most recent twelve months. (Intrastate interLATA revenue, Intrastate intraLATA revenue, directory assistance, and other.) (Provide a detailed explanation of other revenues.)
12. Identify AT&T of the South Central States' operating expense (salary and wages, employee benefits, depreciation, amortization, insurance, taxes, etc) incurred by AT&T of the South Central States in providing Tennessee Intrastate service for the most recent twelve months. (Provide the expense in the most detailed breakdown available and tie the amounts provided to AT&T of the South Central States, official books and records.)
13. Identify AT&T of the South Central States average investment used in the provision of intrastate service in Tennessee for the most recent twelve months. (Provide the investment in the most detailed breakdown available and tie the amounts to AT&T of the South Central States' official books and records.)
14. State AT&T of the South Central States' return on investment and equity from Tennessee Intrastate operations.

Requests 1-14 are intended to determine current financial information about AT&T. If,

for example, AT&T is currently making a profit equal to or exceeding its past experience or the profit of other telecommunications companies, the \$1.40 charge would not appear to be just and reasonable. AT&T may dispute this position, but the information is clearly relevant on the issue of what is just and reasonable.

REQUESTS TO ADMIT

15. AT&T admits that in accordance with Tenn. Code Ann. 65-5-201 the Tennessee Regulatory Authority has the power after hearing upon notice, by order in writing, to fix just and reasonable individual rates, joint rates, tolls, fares, charges or schedules thereof, as well as commutation, mileage, and other special rates which shall be imposed, observed, and followed thereafter by AT&T of the South Central States.
16. AT&T admits that AT&T of the South Central States is required to charge rates that are just and reasonable in accordance with Tenn. Code Ann. 65-4-122.
17. AT&T admits Admit that in the last general rate proceeding under which AT&T of the South Central States' Tennessee intrastate rates were set the cost of providing directory assistance to Tennessee ratepayers was encompassed in the cost of service to be recovered through the approved rates.

The purpose of these Requests to Admit is self-evident and clearly relevant.

CONCLUSION

For the foregoing reasons, the Tennessee Regulatory Authority should direct AT&T to answer the requests set forth in the Petition for Information. If the responses do not allow, or are insufficient to allow, the Authority to establish that the increase is just and reasonable, the Authority should deny the charge. Alternatively, the Consumer Advocate Division of the Office of the Attorney General reserves the right to institute a proceeding to assure that all AT&T rates are just and reasonable in accordance with law.

Respectfully submitted,

Vance L. Broemel

Vance L. Broemel, 11421
Assistant Attorney General
Consumer Advocate Division
Cordell Hull Building, 2nd Floor
425, 5th Avenue North
Nashville, Tennessee 37243-0500
(615)-741-8700

Certificate of Service

I hereby certify that a true and correct copy of the Comments on Petition for Information was served on parties below via U.S. Mail, postage prepaid, this November 9, 1999.

James Lamoureux, Esquire
AT&T
Room 4068
1200 Peachtree Street N.E.
Atlanta, Georgia 30309

Val Sanford, Esquire
Gullett, Sanford, Robinson & Martin, PLLC
230 Fourth Avenue North, 3rd Floor
P.O. Box 198888
Nashville, Tennessee 37219-8888

Vance L. Broemel

Vance L. Broemel